

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KEVIN SCOTT VARNER,

Petitioner,

Case No. 16-14388

v.

HON. AVERN COHN

JOHN CHRISTIANSEN,

Respondent.

**ORDER TRANSFERRING PETITIONER'S MOTION TO PROCEED IN FORMA  
PAUPERIS ON APPEAL (Doc. 60)  
TO THE COURT OF APPEALS FOR THE SIXTH CIRCUIT**

I.

This is a habeas case under 28 U.S.C. § 2254 which has long since closed. In 2016, Kevin Scott Varner (Petitioner) filed a pro se petition, challenging his 2014 convictions for unlawful possession of controlled substances with intent to deliver and resisting and obstructing a police officer. In 2017, the Court denied relief and declined to issue a certificate of appealability. (Doc. 26). Petitioner then filed several motions following the denial of habeas relief. Most recently, Petitioner filed a Motion for Amended or Additional Findings (Doc. 53) and Motion to an Evidentiary Hearing (Doc. 57). The Court denied both motions. (Doc. 58).

On May 6, 2019, Petitioner filed a notice of appeal. (Doc. 59) and a motion to proceed in forma pauperis on appeal. (Doc. 60). For the reasons that follow, the motion will be transferred to the Court of Appeals for the Sixth Circuit.

II.

A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.” Marrese v. American Academy of Orthopaedic Surgeons, 470 U.S. 373, 379 (1985)(citing Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982)(per curiam ). Petitioner’s notice of appeal divests this Court of jurisdiction to consider his motion that he be permitted to proceed in forma pauperis in the Sixth Circuit Court of Appeals. See Johnson v. Woods, 2013 WL 557271, \* 2 (E.D. Mich. Feb. 13, 2013). Moreover, the motion to proceed in forma pauperis on appeal would be more appropriately addressed by the Sixth Circuit.

Accordingly, the Clerk shall transfer Petitioner’s “Motion to Proceed In Forma Pauperis (Doc. 60) to the Sixth Circuit under 28 U.S.C. § 1631.

SO ORDERED.

S/Avern Cohn \_\_\_\_\_  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: 5/20/2019  
Detroit, Michigan